THE HON'BLE SRI JUSTICE T.CH.SURYA RAO

WRIT PETITION NO.5111 OF 2005

ORDER:

The petitioner seeks a writ of mandamus declaring the action of the first and second respondent in interfering with the land situate in survey No.1 of the petitioner and consequently to direct the third and fourth respondents to fix the boundaries of the lands situate in survey Nos.1, 14 and 15 as part of the property of the petitioner falls in the said survey number within a period of two weeks and further direct the respondents to stop constructions being carried on by the unofficial respondents in survey No.14.

Inter alia in the affidavit filed in support of the writ petition it is averred that the petitioner is the absolute owner of the lands situate in Hashmathpet village covered by survey Nos.1, 7, 14 and 15 which is one of the subject matters of the suit in C.S.No.14 of 1958. On an application filed by the petitioner in Application No.1469 of 2002 in Application No.541 of 2002 in C.S.No.14 of 1958, the High Court by its order dated 13.03.2003 appointed Regional Deputy Director, Survey and Settlement, Ranga Reddy District to include Hashmathpet village in the list of villages to be surveyed by him by appointing for that purpose on 26.04.2002. He was further directed to identify the total extent of Hashmathpet village, the vacant land available including the land occupied in accordance with the map prepared by the Bandhobasth Authorities in 1328 Fasli. That exercise as directed by the High Court was carried out by the concerned authorities with the help of the officials of the Department concerned. Further they identified the extent of land in survey numbers of Hashmathpet village and prepared and approved the map and survey which was conducted

by the concerned authorities while taking the scheme of partition into consideration.

While things stand thus, the second respondent tried to interfere with the fencing operations being carried on by the petitioner at the instance of unofficial respondents and tried to interfere with his possession on one pretext or the other. The Mandal Revenue Officer initiated proceedings against the petitioner on 28.02.2005 by asking the second respondent not to allow the petitioner to enjoy their property and to stop the fencing activity in the land belonging to the petitioner. Several persons claiming to be possessors and purchasers have commenced illegal constructions detrimental to the interest of the petitioner and also to the other sharers of the partition suit. This kind of illegal activities cannot be permitted by the authorities much less by the police officials who have absolutely no claim or interest in the above lands. Hence the writ petition.

At the time of admission, this Court passed an interim order directing the third and fourth respondents to demarcate the boundaries of the lands in survey Nos.1, 14 and 15 of Hashmathpet village, Balanagar Mandal, Ranga Reddy District and identify them and upon such identification, the petitioner is entitled to have the required protection if necessary by the first and second respondents. This Court further directed the respondents to complete the entire exercise within a period of three weeks. Of course, at the end, this Court directed the status quo to be maintained by the seventh and eighth respondents. Pursuant to the interim directions, the Mandal Revenue Inspector made inspection of the land situate at Hashmathpet village and addressed his report dated 06.12.2006 to the Deputy Collector annexing therewith demarcation sketch of survey numbers 1 and 15 of Hashmathpet village. A copy of the said report along with the demarcation sketch has been submitted to this Court.

The eighth and ninth respondents appeared through their counsel and filed a separate petition seeking vacation of the interim

order granted by this Court. They filed their counter. It is averred *inter alia* that the interim order passed by this Court has virtually granted the consequential relief that has been sought for in the main writ petition. Unless the petitioner is able to show that there has been any interference on the part of the first and second respondents, they are not entitled to the relief sought for, for survey of the land. The consequential relief sought for in the main writ petition is beyond the scope of the main prayer in the writ petition. The petitioner who is claiming title to the property on the basis of an assignment so far has not obtained any final decree in the suit. When no final decree is passed, the petitioner has no right in respect of the land. Admittedly, earlier in pursuance of the directions issued by this Court survey has been conducted and boundaries have been fixed. Until and unless they are set aside, the petitioner is not entitled for getting the land re-surveyed. The provisions of the A.P. Survey and Boundaries Act, 1923 (for brevity 'the Act') apply and as per Section 9 thereof it is obligatory on the part of the authorities to issue notice to all the adjacent pattadars and affected parties and once survey is conducted, any person aggrieved by the said survey has a remedy of appeal. Without assailing the survey and settlement operations conducted earlier under the provisions of the said statute, the petitioner cannot invoke the extraordinary jurisdiction of this Court and maintain the instant writ petition.

There has been no gainsaying that the petitioner is the owner of the land situate in Hashmathpet village covered by various survey numbers 1, 7, 14 and 15 which are the subject matter of the suit C.S.No.14 of 1958. The suit C.S.No.14 of 1958 ended in a compromise decree pursuant to which a preliminary decree was passed. Thereafter several alienations appeared to have been made by some of the sharers therein and each one of such subsequent purchasers or assignees has been pursuing his remedies in the said suit. Several proceedings have been taken up and the suit C.S.No.14

of 1958 appears to have contributed to a lot of litigation.

A learned single Judge of this Court in Writ Petition No.10605 of 1997 while disposing of the same directed the Government of Andhra Pradesh to take a decision regarding mutation issue pending before it in the light of the survey report within a period of one month from the date of receipt of that order. In the Writ Appeal filed by the State against that order in W.A. No.2222 of 2003, a Division Bench of this Court dismissed the appeal while confirming the earlier order. Likewise, directions used to be obtained by filing the necessary writ petitions. Pursuant to the directions of this Court, the mutation issue appeared to have been resolved by the State.

While things thus stand, the petitioner filed the instant writ petition assailing the action on the part of the first and second respondents in trying to interfere with the lands situate in survey No.1 of the petitioner. The unofficial respondents, who filed their counter resisting the writ petition, alone are contesting the writ petition. As can be seen from the averments made in the writ petition, no details have been mentioned showing the manner in which the first and second respondents are trying to interfere with the land of the petitioner. From the rival contentions of the writ petitioner and the seventh and eighth respondents, it is obvious that there appears some dispute in between them *inter se*. It is the grievance of the seventh and eighth respondents that under the guise of the interim order passed by this Court the first and second respondents are interfering with the possession of the land of the seventh and eighth respondents covered by survey No.4 which is not the subject matter of the suit C.S.No.14 of 1958 and they even highhandedly sought to demolish the constructions that are being carried on. The instant writ petition, from the rival contentions, appears to have been aimed at the seventh and eighth respondents while impleading the other official respondents. In fact, no instances have been shown whereunder the first and second respondents tried to interfere with the land of the petitioner.

There is no need, having due regard to the directions given by this Court earlier in the two writ petitions referred to hereinabove, to direct the third and fourth respondents to fix the boundaries of the lands situate in survey Nos.1, 14 and 15 of Hashmathpet village. Statutory survey has already been conducted in accordance with the provisions contained in the Act. The Act envisages the survey of any Government land or fixation of any boundary of such land or fixation of the boundary forming the common limit of Government land and land that is not the Government land. In regard thereto, the State is obliged to issue the necessary notification before conducting survey. The survey officer to whom the said task is entrusted has the power to determine the disputes regarding the boundaries. The Act confers right of appeal against the decision of the survey officer and right to file a suit by the aggrieved party. The Act further envisages the survey of any estate or any portion of an estate or of any boundary therein. In regard thereto, the survey officer has to follow the same procedure for the survey of the Government land or fixing the boundary of that land or fixing the common limit of the Government land and the land that is not the Government land. From the scheme of the Act, it is obvious that the Government can direct the survey of the Government land and fixation of boundaries and survey of any estate and fixation of boundaries. In the instant case, as can be seen from the matrix, it is obvious that the dispute as regards the boundary is in between the writ petitioner and the seventh and eighth respondents who are the private parties. Therefore, there is no obligation on the part of the State to resolve the boundary dispute in between two private owners. In the absence of any such obligation under the Act, no mandamus can be issued to the State directing the State to conduct the survey and settlement operations for resolution of a boundary dispute in between two individuals. Therefore, no such direction can be given to the State or as a matter of that to the third and fourth respondents for demarcation

or fixing the boundaries of the lands in survey Nos.1, 14 and 15 of Hashmathpet village circumventing the provisions of the Act and ignoring the survey and settlement operations conducted earlier duly under the provisions of the Act. Such a relief as sought for in the instant writ petition cannot be granted, as discussed hereinabove. The instant writ petition appears to have been misconceived and appears to have been aimed at the seventh and eight respondents alone by trying to implead the official respondents. I see no merit in the instant writ petition.

For the above reasons, the Writ Petition fails and is dismissed. Under the circumstances, no order as to costs.

17---04---2007

VGSR

THE HON'BLE SRI JUSTICE T.CH.SURYA RAO

WRIT PETITION NO.5111 OF 2005

DATED 17.04.2007

M/s.Gold Stone Exports Pvt. Ltd.,
Rep. by its Authorized Representative
R.Subramanyam, Office at Flat No.406,
Amarchand Sharma Complex,
S.D. Road, Secunderabad. … Petitioner

And

The Assistant Commissioner of Police,
Alwal, Ranga Reddy District. And Others … Respondents